

JUDD GREGG
NEW HAMPSHIRE

COMMITTEES:

BUDGET, *Ranking Member*

APPROPRIATIONS

BANKING, HOUSING AND
URBAN AFFAIRS

HEALTH, EDUCATION, LABOR
AND PENSIONS

United States Senate

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June 23, 2010

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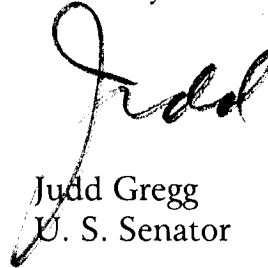
Joyce K. Frank
Acting Associate Administrator for Congressional and Intergovernmental Relations
Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Room 3426 ARN
Washington, DC 20460

Dear Ms. Frank:

Enclosed please find correspondence from Mr. Douglas Baresich of National Gypsum Company located in Portsmouth, New Hampshire. Mr. Baresich is expressing concerns about proposed EPA regulations regarding Flue Gas Desulfurization (FGD) gypsum and other coal combustion residuals.

I would appreciate your consideration and attentiveness to this matter. Thank you in advance for your prompt reply.

Sincerely,



Judd Gregg
U. S. Senator

JG/dr
Enclosure



National Gypsum Company
2375 S. National City Road
National City, MI 48748

2010 JUN 16 PM 3:22

June 15, 2010

The Honorable Judd Gregg
United States Senate
Attn: Jim Gauthier
Washington, DC 20510

Dear Senator Gregg:

Re: EPA Proposals Coal Combustion Residuals

I am the plant manager of National Gypsum's Portsmouth, NH plant. Our company uses byproduct (synthetic) gypsum in several of its plants to produce wallboard. Byproduct gypsum is produced by the Flue Gas Desulfurization (FGD) process. The EPA has proposed two alternative regulations regarding coal combustion residuals, including FGD gypsum. We understand the final proposed regulation will be published next Monday. If adopted, one of these alternative proposals would seriously impact our company and the gypsum wallboard industry as a whole.

National Gypsum favors the proposal which would leave the Bevill Regulatory Determination in place and regulate the disposal of coal combustion residuals (CCRs) under Subtitle D of the Resource Conservation and Recovery Act (RCRA). This proposal would retain EPA's long-standing determination that coal combustion residuals are non-hazardous, but the proposal would institute additional standards for landfills and surface impoundments in which CCRs are to be stored. FGD gypsum (byproduct, synthetic, manufactured) has been used in the United States for 30 years and has been classified as non-hazardous waste by EPA since 1993. Nothing has changed in the process since that time. FGD gypsum is produced in a distinctly separate process from the burning of coal, after fly ash and other combustion particulates are removed, and is a washed, highly pure material having significant beneficial uses. Many hundreds of millions of dollars have been spent by gypsum wallboard manufacturers to build plants and use byproduct gypsum in reliance upon the EPA's historic classification. In fact, roughly 35% of all wallboard capacity in the U.S. is based on the use of FGD gypsum.

The second EPA proposal would reverse its previous determination and calls for regulating all coal combustion products as hazardous waste if they are destined for a landfill or an impoundment. However, in a seeming contradictory approach, EPA would continue to support the beneficial use of the same materials in concrete and wallboard.

When used in these products, the coal combustion residuals would be defined as non-hazardous by the EPA.

On the surface, this carve-out for the beneficial use of coal combustion residuals sounds good. However, the overarching hazardous label will have a detrimental impact on companies such as ours. In just the few short days since EPA's release of the draft rules, we have already received a letter from one architect who says he will specify gypsum wallboard made exclusively from rock and not byproduct if the second proposal is adopted. The utilities supplying byproduct to our plants have also indicated serious doubts that they would continue to supply byproduct gypsum to us if a hazardous label is attached to it under any circumstances. In fact, one utility has flatly stated it would not provide it. That means this byproduct will have to go to a landfill.

Of even greater concern, the combined views of the Departments of Energy, Transportation, Interior, Agriculture, Army Corps of Engineers, and the White House's own Office of Management and Budget, and Council on Environmental Quality recently stated to EPA¹, "*Regulation of CCR under Subtitle C could have negative impacts on reuse (beneficial use) of these materials and create liability concerns related to past reuse of these materials in applications such as construction and agriculture.*".

Wallboard made of byproduct gypsum is not only non-hazardous, but it uses a waste product, which would typically go to a landfill, for an essential building material. We ask that you contact the EPA Administrator and oppose regulating CCRs as hazardous waste.

Sincerely,



Douglas J. Baresich
Plant Manager, Portsmouth Plant
National Gypsum Company

cc. Thomas C. Nelson
Chairman, President and CEO
National Gypsum Company

¹ Interagency Working Comments on Draft Rule prepared by OMB, published on Regulations.gov.